



**PEGASUSTOWER**

P.O. Box 233 ▪ Richlands, Virginia 24641 USA  
276-964-7416 voice ▪ 276-963-2587 fax

May 10, 2004

**Commonwealth of Kentucky**  
**PUBLIC SERVICE COMMISSION**  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, Kentucky 40602-0615  
Attn: Jeff Cline

**RECEIVED**

MAY 12 2004

**PUBLIC SERVICE  
COMMISSION**

**RE: Application of Pegasus Tower Company for a Certificate of Public Convenience and Necessity in cooperation with American Cellular Corporation (D/B/A Cellular One) to Construct a Cellular Communications Facility northwest of the terminus of M. Doughthitt Road (CR 1118) in Fleming County, Kentucky (P.S.C. Case No. 2004-00136)**

Dear Mr. Cline:

Pegasus Tower Company is placing before the Public Service Commission of Kentucky a request a Certificate of Public Convenience and Necessity to construct a cellular communications tower facility in Fleming County, Kentucky. Enclosed are the required documents and a check in the amount of \$2500.00 to cover the application fee.

Please do not hesitate to contact me regarding this matter at 276-971-3908 or you mail email me at [htimmons@pegasustower.com](mailto:htimmons@pegasustower.com).

Pegasus Tower Company

Harold K. Timmons  
Zoning Manager

Cc: attachments



**PEGASUS TOWER**

P.O. Box 233 ■ Richlands, Virginia 24641 USA  
276-964-7416 voice ■ 276-963-2587 fax

May 10, 2004

**Commonwealth of Kentucky**  
**Public Service Commission**  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, Kentucky 40602-0615

**RECEIVED**

MAY 12 2004

**PUBLIC SERVICE  
COMMISSION**

**RE: Application of Pegasus Tower Company for a Certificate of Public Convenience and Necessity in cooperation with American Cellular Corporation (D/B/A Cellular One) to Construct a Cellular Communications Facility northwest of the terminus of M. Doughthitt Road (CR 1118) in Fleming County, Kentucky (P.S.C. Case No. 2004-00136)**

Enclosed are the documents required for the submittal of a request for a Certificate of Public Convenience and Necessity from the Public Service Commission of Kentucky (the "KYPSC"). The documents submitted are pursuant to the applicable authority of **KRS 278.040(3), 278.020(1), 278.650, 278.665, and Section 9, 807 KAR 5:063** and all other relevant statutes and regulations for the approval to permit the construction of a cellular communications facility in Fleming County, Kentucky. With the submittal of this information Pegasus Tower Company seeks approval to construct a communications tower facility containing a 340-foot tall guyed-wire structure and related equipment buildings or cabinets on property owned by Robert R. & Pauletta L. Lawson and located approximately .910 miles northwest of the terminus of M. Doughthitt Road (CR 1118), a public road.

**Applicant**

Pegasus Tower Company, the applicant, is seeking a Certificate of Public Convenience and Necessity. This request is being submitted in cooperation with our client American Cellular Corporation d/b/a Cellular One. Cellular One is licensed to provide wireless services in the State of Kentucky by the Federal Communications Commissions (the "FCC"). Pegasus Tower Company conducts its business from its location at 133 Steelsburg Highway, Cedar Bluff, Virginia. All correspondence should be address to: Harold Timmons, Zoning Manager, Pegasus Tower Company, P.O. Box Richlands, Virginia 24641. Cellular One is located at 124 S. Keeneland Drive, Richmond, Kentucky 40475.

Pegasus Tower Company is a small, Virginia based company that is committed to conducting business with integrity and providing its clients with quality communications tower facilities. Pegasus Tower Company also provides facility management services to customers across the country; however, constructing towers that can be collocated

upon by an optimum number of clients is a core business principle. Should this tower be approved Pegasus Tower Company will actively market this structure to all public and private entities needing space for their communications needs.

Our client, American Cellular Corporation (Cellular One), has designed this proposed antenna facility to be an integral part of its wireless infrastructure that provides mobile communication services to individuals, businesses, and safety agencies throughout this community and the nation. People rely on wireless phones for personal safety and security. At the same time, many public service agencies depend on wireless technology to provide disaster relief and emergency services. American Cellular Corporation is committed to providing safe and efficient wireless communication services to everyone who depends on wireless phones for personal safety, convenience, and emergency communications. **[807 KAR 5:063 Section 1(1)(a)].**

### **The Proposed Facility**

The proposed facility will be located on property owned by Robert R. & Pauletta L. Lawson that is located approximately .910 miles northwest of the terminus of M. Doughthitt Road (CR 1118). CR 1118 (M. Doughthitt Road) intersects with KY SR 32 approximately 1.66 miles southeast of KY SR 1013. The latitude and longitude coordinates are provided on the attached site development plans. A copy of our tower site lease option is provided under **Exhibit 1.** **[807 KAR 5:063 Section 1(1)(f)].**

The plan for development is to construct a 340 foot tall guyed wire steel structure and concrete pad for an equipment building that will be subsequently installed by Cellular One. The proposed facility layout, as shown on the site development plan provided **(Exhibit 2)** will provide for the future location of six (6) additional users. **[807 KAR 5:063 Section 1(1)(h)]** Future ground locations for equipment are shown at 12'x22' on the plans provided. The tower will be constructed to meet ANSI/EIA/TIA 222-F standards with a designed wind speed of 90 mph with a 3 second gust and 1/2" radial ice as indicated in **Exhibit 3.** **[807 KAR 5:063 Section 1(1)(j)].** All construction will be in compliance with all local, state and national building codes applicable to communication tower construction.

As required under **807 KAR 5:063 Section 1(1)(e)** driving directions to the proposed site are: From the Fleming County Courthouse at 201 Court Street, proceed southwest along N. Main Street (SR 57) to the intersection of N. Main Street and W. Water Street (SR 11), turn left onto SR 11 (E. Water Street) and continue southeast along SR 11, which becomes SR 32 (E. Water Street). Continue along SR 32 for approximately 15 miles and turn left onto CR 1118(M. Doughthitt Road) and continue to the roads terminus. Continue along dirt site access road for a distance of approximately .910 miles to the site. If there are questions regarding the directions please contact Harold Timmons, Zoning Manager, Pegasus Tower Company at 276-971-3908.

### **Notification Requirements**

Fleming County, Kentucky does not have a local Planning Commission or Zoning Authority and therefore this submittal is being prepared in compliance with the rules that apply to those jurisdictions. In accordance with **807 KAR 5:063 Section 1(1)(l)**, a list of the persons that own property within 500 feet of the proposed tower and those with property contiguous to the Lawson property was prepared. Each property owner has been notified by certified mail dated May 7, 2004 of our desire to seek a Certificate of Public Convenience and Necessity from the KYPSC to construct a communication tower on the Lawson property and their right to request intervention in the matter. All notification letters contained the docket number of the matter and the name and address to mail correspondence. Copies of the letters sent and a list of the property owners to receive the letters have been provided under **Exhibit 4. [807 KAR 5:063 Section 1(1)(m)]**. Return receipts have been addressed to Pegasus Tower Company.

Notification was also provided in conformance with **807 KAR 5:063 Section 1(1)(n)** to Fleming County Judge-Executive Larry H. Foxworthy dated May 7, 2004. Return receipt was addressed to Pegasus Tower Company and a copy of the letter sent is attached as **Exhibit 5. [807 KAR 5:063 Section 1(1)(o)]**. In accordance with the above provision, the letter described our intent to obtain a Certificate of Public Convenience and Necessity from the KYPSC as well as details of the development, the docket number of the matter and the right to have the KYPSC intervene in the matter if desired.

A "Notice of Proposed Construction or Alteration" was filed with the Federal Aviation Administration in accordance with this request. A copy of the subsequent determination received from the FAA along with our airspace consultant's determination has been provided as **Exhibit 6**. The marking and lighting of the tower will be in compliance with the determination received from the FAA. A dual mode lighting system will be employed on the structure. Lighting will be located atop and mid-way up the tower. The tower will utilize a white strobe light for daytime marking but at dusk will change to a medium intensity red strobe for nighttime marking. A copy of the "Application for Permit to Construct or Alter a Structure" was filed with the Kentucky Airport Zoning Commission. **Exhibit 7. [807 KAR 5:063 Section 1(1)(b)]**.

Signs to be placed at the proposed site and along the nearest public road have been prepared. A sign was placed at the tower site and a second sign was installed on the gate to the property located at the terminus of CR 1118 (M.Doughthitt Road) since it is a public roadway. The signs were placed on the property on May 6, 2004 and will remain at the locations mentioned for at least two consecutive weeks. Since our office is located in Virginia the signs may remain until the start of construction. The signs are 2' x 5' in size which exceeds the minimum sign requirements. **Exhibit 8. [807 KAR 5:063 Section 1(1)(p)]; 807 KAR 5:063 Section 1(1)(2)]**.

In accordance with **807 KAR 5:063 Section 1(1)(c)**, Cellular One can place the site in operation under federal law by filing a notice with the Federal Communications Commission after construction is complete. Pegasus Tower Company does not plan to do so since we are only involved in the construction and completion of the tower itself. This structure will be registered with the FAA.

Notification of our request to seek a Certificate of Public Convenience and Necessity to construct a 340' tall communications tower was submitted to the *Flemingsburg Gazette*, a paper of general circulation in Fleming County, on May 7, 2004. The notice is scheduled to run in this weekly paper during the week of May 10, 2004. A copy of the information filed with the *Flemingsburg Gazette* is provided as **Exhibit 9. [807 KAR 5:063 Section 1(1)(q)]**. A copy of the notice from the paper will be forwarded upon publication.

#### **Public Convenience and Necessity**

The purpose of the proposed communications tower is to allow Cellular One to improve its network in the southeastern portion of Fleming County. Coverage in this part of the County is currently being provided by Cellular One from Site 24-Goddard; Site 670-Morehead Exit G; and Site 12-Morehead G. These sites are shown on the radio frequency propagation map provided and designated as **Map 1**. Site 24 provides coverage along a portion KY SR 32; Site 670 provides coverage along a portion of KY SR 32, I-64 and US 60; and Site 12 provides coverage along I-64 and US 60 as well. **Map 1** shows that an area located between Sites 24 and 670 is currently without Cellular One coverage. **Map 2** provides an illustration of the improved coverage that will be provided with the addition of the requested communications tower facility. The construction of this facility will not only provide for Cellular One's future needs but for the needs of the other wireless service providers seeking to improve their network or to alleviate network capacity issues that may arise. **[807 KAR 5:063 Section 1(1)(a)]**.

#### **Collocation And Other Considerations**

The proposed tower will be located atop a hill that is adjacent to KY SR 32. The actual location of the tower is approximately 2.39 miles from KY 32 and there is a change in elevation from KY 32 up to the site of approximately 385+- feet. The tower will be located back away from the ridge of the hill in a wooded area of the property. The area is sparsely populated and characteristic of most rural communities as agricultural, farming and forestry uses dominate the landscape. Aerial maps are provided for review as **Exhibits 9, 10 and 11. [807 KAR 5:063 Section 1(1)(r)]**. The subject property is currently undeveloped and absent of any particular land use other than forestry. Lastly, since Fleming County does not have a local planning and zoning authority the property does not have a zoning classification. **[807 KAR 5:063 Section 1(1)]**.

The impact of communication towers on the value of surrounding properties is an issue that has been debated since towers have been in use by the communications industry (i.e. radio, television, wireless). Based on our experience with locating and constructing

towers throughout much of the eastern United States, we believe that a tower in the location proposed is compatible with existing land uses. In considering the effects of the tower on existing land uses and values, Pegasus Tower Company believes that the location is the most suitable location that is reasonably available and that the tower will not have an adverse or detrimental impact on property values in the immediate vicinity of the property.

An analysis of the area for potential collocation opportunities determined that there is a lack of existing structures that could be reasonably considered for collocation purposes. Cellular One provided a map showing the desired search area and a copy of that map is provided as **Map 3. [807 KAR 5:063 Section 1(1)(t)]**. The Lawson site is located approximately 1.14 miles south of the center of the design for this site. The nearest structures to the proposed site are a group of wood poles, approximately 80 to 100 feet in height, currently in use as a part of an electric transmission line running through a portion of the Lawson property. This transmission line is approximately 1,800 feet east of the proposed site and shown on **Exhibits 9 - 11**. Due to the lack of height of these structures and the elevation of the property above KY 32, these structures do not allow the service provider to achieve the primary objective by providing coverage along KY 32 due to a shadowing effect upon of the signal. Utilizing these structures would not provide coverage to a significant portion of the roadway where most of the call usage is expected to originate in this area. There is a second transmission line (see **Exhibit 9 and Map 4**) located approximately 1.69 miles to the east the proposed tower site and 4.08 miles from KY 32. The elevation of the line is somewhat equal to that of the proposed tower site and the poles are in the height range of the closer transmission line. These structures cannot achieve the desired coverage goal due to lack of adequate height and distance away from KY 32. The shadowing effect would be even greater at this location than the line running through the Lawson property. The proposed tower will be 340' in height if approved and the tower's height was determined by Cellular One as necessary due to the site's distance from the lip of the ridge to the west that borders KY 32. Without this height there will be significant shadowing of the signal resulting in a lack of coverage along portions of the roadway. The transmission line sites also cause concern in regards to their ability to handoff calls between existing Cellular One sites to the north and south shown on **Map 5**. A review of **Map 6** shows existing communication towers in this area. The nearest existing communications tower was found to be 6.46 miles to the north between the Goddard and Wallingford areas and is currently in use by Cellular One. The nearest structure to the south is located 8.23 miles away from the proposed site and also would not achieve the desire coverage objective. In short, our evaluation of the area determined that from the tower near Goddard the next closest tower is 14.69 miles away to the south and therefore justifies the need for an additional structure to provide coverage. Due to the significant distances between structures Pegasus Tower Company did not attempt to contact any of the structure owners since there is no reasonably available opportunity to collocate based on the potential for solving Cellular One's coverage problem. A copy of the RF analysis for this tower location is attached as RF **Map 1 and Map 2**. These maps

clearly demonstrate the area currently without coverage and how the addition of this tower will connect site to the north with the sites in the south to provide seamless coverage along KY 32. **[807 KAR 5: 063 Section 1(1)(s)]**.

For the reasons stated above, Pegasus Tower Company is of the opinion that the public convenience and necessity require the construction of the proposed communications tower facility. Pegasus Tower Company respectfully requests that the Public Service Commission of Kentucky issue an order granting a Certificate of Public Convenience and Necessity for the communications tower facility proposed on the Lawson property and located .910 miles northwest of the terminus of M. Doughthitt Road (CR 1118) at N38<sup>0</sup> 17' 19.1098" Latitude and W83<sup>0</sup> 33' 26.2703" Longitude in Fleming County, Kentucky.

Respectfully,



Pegasus Tower Company  
Harold K. Timmons  
Zoning Manager  
276-971-3908(cellular)

Enclosures

## LIST OF EXHIBITS

The following documents are provided as required by the requirements for application for a Certificate of Public Convenience and Necessity to Construct Antenna Towers for Cellular Telecommunications Services or Personal Communications Services in Jurisdictions without a Planning Commission:

- Exhibit 1: Pegasus Tower Site lease option document.
- Exhibit 2: Site Development Plans containing drawing of facility compound layout for present and future users – see sheet C-1. The site development plan has been signed and sealed by a professional engineer licensed in the State of Kentucky, and shows all relevant data related to the location of the tower, all easements and existing structures within 500 feet of the proposed tower site as required by **807 KAR 5:063 Section 1(1)(h)**. Gary D. Facemayer, a licensed professional engineer in the State of Kentucky for Terradon Corporation, prepared the site development plans provided.
- Exhibit 3: A tower design criteria as provided by W. Gray Hodge, a licensed Kentucky professional engineer, providing a description of the standards to which the tower and its foundation were designed. A vertical sketch of the tower is provided as part of this application and as part of the site development plan document. **[807 KAR 5:063 Section 1(1)(i), (j)]**.
- Exhibit 4: Property owner list, copies of letters sent to property owners within 500 feet of tower, attachments and certified letter receipts.
- Exhibit 5: Copy of letter and attachment sent to Judge-Executive of Fleming County, Kentucky
- Exhibit 6: Copy of FAA Determination for Plummers Mill, KY site. Copy of Ken Patterson Airspace Consulting, Inc. site determination and map.
- Exhibit 7: Copy of Application for Permit to Construct or Alter a Structure filed with the Kentucky Airport Zoning Commission.
- Exhibit 8: Copy of advertisement sent to Flemingsburg Gazette for publication.
- Exhibit 9: Aerial Map showing site, transmission line A and B.
- Exhibit 10 & 11: Aerial Map showing site, transmission line A.

- Exhibit 12: Qualifications of David G. Childress who will be the responsible party representing Pegasus Tower Company for the construction of the proposed tower. The tower was designed by W. Gray Hodge, who is a licensed Kentucky professional engineer **[807 KAR 5:063 Section 1(1)(g)]**.
- Exhibit 13: The Geotechnical Investigation report as prepared by Terradon Corporation. The recommendations of this report were followed in the tower and foundation design aspects. **[807 KAR 5:063 Section 1(1)(d)]**.
- Map 1: Radio Frequency propagation map showing coverage of the area as provided by existing Cellular One sites/locations.
- Map 2: Radio Frequency propagation map showing coverage to be achieved after the addition of the requested communication tower facility on the Lawson property.
- Map 3: Search area map as provided by Cellular One for search to be conducted for tower site. **[807 KAR 5:063 Section 1(t)]**.
- Map 4: Existing topography map of location of proposed facility and existing transmission line.
- Map 5: Map showing existing Cellular One locations that will work with the proposed facility on the Lawson property.
- Map 6: Map showing existing communication tower facilities in the area and their distance from the proposed facility.
- Map 7: A map showing all adjacent parcels of land and landowners as well as those land owners with property and/or structures within 500 feet of the proposed tower site. There were no structures and only three landowners within 500 feet of the tower site. Notification was sent to all property owners whose land adjoined land owned by Mr. and Mrs. Lawson. **[807 KAR 5:063 Section 1(k)]**.
- Map 8: A map showing the site location within the general area is also provided.

## **INDEX OF 807 KAR 5: 063 REGULATION COMPLIANCE**

### **ADDITIONAL INFORMATION:**

Letter from Cellular One and FCC Information